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COMMITTEE ON JUDICIARY

February 2, 2005

LB 402, 529, 648, 649, 650, 361, 469

The Committee on Judiciary met at 1:30 p.m. on Wednesday, February 2, 2005, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 402, LB 529, LB 648, LB 649, LB 650, LB 361, and LB 469. Senators present: Patrick Bourne, Chairperson; Ray Aguilar; Ernie Chambers; Jeanne Combs; Mike Flood; Mike Foley; and Mike Friend. Senators absent: Dwite Pedersen, Vice Chairperson.

SENATOR BOURNE: Good afternoon. Welcome to the Judiciary Committee. This is our sixth day of committee hearings. We're hearing seven bills this afternoon. I'm Pat Bourne. I'm from Omaha. You can tell it's been a long day already. The other senators on the committee, Senator Mike Flood from Norfolk; Senator Friend from Omaha; Senator Aguilar from Grand Island. Laurie Vollertsen is our committee clerk. Michaela Kubat is our legal counsel. And Senator Foley from Lincoln. I'll introduce the other members as they arrive. Please keep in mind that senators have duties and other obligations and will be leaving the committee room periodically to introduce bills and conduct other business so please don't take it personally if you're testifying and they step out of the room. If you plan to testify on a bill, please sign in in advance. We're going to use these two chairs up at the front as our on-deck type table. Please print your information so that it's easily readable and can be entered accurately into the permanent record. Following the introduction of each bill I'll ask for a show of hands to see how many people plan to testify on the bill. We'll first hear proponent testimony, then opponent testimony. Then we'll have any neutral testimony and then, of course, the senator can close. When you come forward to testify, please clearly state and then spell your name for the benefit of our transcribers. All the hearings here are transcribed so that will help them immensely. Due to the large number of bills heard here in the Judiciary Committee, I think that our committee has right at 20 percent of the bills referred to the Legislature. We're going to use the Kermit Brashear memorial lighting system (laughter). The senator introducing the bill will get five minutes and three minutes if they opt to close. All other testifiers will get three minutes exclusive of any questions the committee might ask. The blue light goes on for three minutes. The yellow

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light comes on as a one-minute warning and then when the red light comes on we ask that you conclude your testimony. The rules of the Legislature state that there are no cell phones allowed in committee rooms so if you have a cell phone please disable it. We will allow you to submit other people's testimony but we won't allow you to read that into the record. With that, we've been joined by Senator Chambers from Omaha and Senator Combs. I think we'll open on the first bill, LB 402, Senator Fischer to open.

LB 402

SENATOR FISCHER: Thank you, Senator Bourne. Chairman Bourne and members of the Judiciary Committee, my name is Deb Fischer and I represent the 43rd Legislative District here in the Nebraska Unicameral. I am here to introduce LB 402 which would change the requirements for updating master jury lists for counties with a population of 3,000 or less. In 2003, the final report of the Nebraska Minority and Justice Task Force contained a recommendation that counties refresh their jury pools annually to assure adequate representation of the population. Related legislation, LB 19, was adopted that year. Although a number of counties were already updating the lists of potential jurors regularly, some counties had not held a jury trial for many years and had not refreshed the jury list until recently. Pursuant to LB 19, all counties updated their jury pools. LB 402 would require counties with a population of less than 3,000 to refresh their jury pool every two years rather than annually. The new language would apply to the state's smallest 21 counties. Of those 21 counties, my district has 9. Those are McPherson, Blaine, Loup, Thomas, Logan, Hooker, Keya Paha, Rock, and Boyd. The figure of 3,000 was used because that is what the Nebraska Supreme Court agreed to. Counties with a shifting population would generally be excluded from the two-year provisions due to size. Allowing these counties to refresh their jury pool every two years instead of every year would save an average of \$300 per year. You may think that doesn't sound like a lot of money. In some of these counties it is. But there is not a need to spend that money if the county has not had a jury trial in many years. All counties are starting from a new list as required by the legislation adopted two years ago. Small counties that have

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a need for more frequent refreshment of their jury pool could do so. I'm introducing this on behalf of the county officials and especially those in those nine small counties that I represent in the 43rd district. Thank you.

SENATOR BOURNE: Thank you. Before we ask questions of Senator Fischer, could I get a show of hands of those individuals wishing to testify in support? I see one. Those individuals wishing to testify...I see two. Those individuals in opposition? I see none. Neutral testimony? I see none. Are there questions for Senator Fischer? Seeing none, thank you.

SENATOR FISCHER: Okay, thank you very much.

SENATOR BOURNE: First testifier in support? And, again, we're going to make use of the on-deck area. Thank you for making your way forward.

SENATOR FISCHER: I would waive closing, Mr. Chairman. Thank you.

SENATOR BOURNE: Thank you, appreciate it. Welcome.

LARRY DIX: Good afternoon. Senator Bourne, members of the committee, for the record my name is Larry Dix spelled D-i-x. I'm the executive director of the Nebraska Association of County Officials. First we would like to thank Senator Fischer for bringing this bill forward on behalf of NACO and the small Nebraska counties. Certainly, Senator Fischer pointed out in her opening remarks the counties that would be impacted by this and that it is a small dollar amount for those counties. When I looked at counties of 3,000 or less and did sort of a quick survey, out of those 21, 14 out of those did not have a trial last year in either district or county court so there's a number of those counties certainly that do not have a trial, certainly on an annual basis. I talked to one county clerk that has served for 22 years and in her time in her county there has never been a trial that required a jury. So, and when you start to look at the smallest counties...now when you start to look at the ones that are a thousand population and less, the frequency of a jury trial in those counties seems to be running about every five years so when you get down to the very, very smallest we just don't see that

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occurring too often. In many of the very, very smallest counties if there is a jury trial it, of course, is...of enough serious nature, it's moved to another larger county anyway. So although we're looking at a very, what we believe and hear of \$300 a very, very small amount. To these smallest counties \$300 is a significant amount in their budget. And with that, certainly we would ask the committee to look at this in benefit of the smallest counties in the state of Nebraska. I'd be happy to try to answer any questions anyone may have.

SENATOR BOURNE: Thank you. Questions for Mr. Dix? Senator Chambers.

SENATOR CHAMBERS: Mr. Dix, what would that money be spent for?

LARRY DIX: Senator Chambers, that money the \$300 or whatever would be then, of course, allocated probably back to the General Fund, the county General Fund. In those counties each county official has to submit their budget to the county board and in that instance the clerk of the district court or in these smallest of counties for the most part, the clerk serves as the county clerk, the clerk of the district court, the election commissioner, sometimes even the assessor. So that money simply would be a reduction in their budget.

SENATOR CHAMBERS: So there is no real expenditure involved.

LARRY DIX: Yes, there is. That...

SENATOR CHAMBERS: That's what I want to know. What would the money that is spent be spent for?

LARRY DIX: Okay. What the money that currently is being spent for, currently on the jury selection process, you take the number of registered voters that are on a computer system and you take the driver's license and you actually merge those two together. Many of those counties actually send that out and actually pay money to computer companies that actually do that merging, eliminate the duplicates. The number is drawn and then every tenth name beyond that is selected, a duplicate set of labels is created for the jury pool, and then the master list is created. So that money

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primarily is spent on computer processing computer cycles.

SENATOR CHAMBERS: Thank you.

SENATOR BOURNE: Thank you. Further questions for Mr. Dix?
Seeing none, thank you.

LARRY DIX: Thank you.

SENATOR BOURNE: Next testifier in support?

MARLENE VETICK: Good afternoon, Senators. My name is Marlene Vetick, V-e-t-i-c-k. I'm the clerk of district court from Platte County, Nebraska and I also represent the Clerks of District Court Association. I'm here this afternoon to testify in favor of LB 402 and we're requesting that the requirement to produce a master jury list be modified to at least once every two calendar years for those counties having a population of less than 3,000. The number of those counties that would affect as stated before is 21. In practice, most of these counties have not held a jury trial within the past ten years and the cost associated with refreshing that jury list on an annual basis is quite burdensome. Allowing for a master list to be refreshed every two years in counties of this size will still allow for shifts in population and in demographics to be addressed should they occur while easing the economic impact of such a requirement on small counties. Thank you and I would answer any questions.

SENATOR BOURNE: Thank you. Questions for Ms. Vetick? Ms. Vetick, how long does it take a county official to refresh a list?

MARLENE VETICK: From the time that we purchase the list, in a county our size, I can only speak for a county my size with the workload that we have with community service workers helping, it takes us approximately 30 to 45 days to complete that list from the time it's ready to be mailed out and used for our next jury panel.

SENATOR BOURNE: Okay. Thank you. Further questions? Seeing none, thank you.

MARLENE VETICK: Thank you.

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LB 402, 529

SENATOR BOURNE: Next testifier in support?

BILL MUELLER: Mr. Chairman, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB 402. As this committee knows, the Nebraska Supreme Court and the Nebraska State Bar Association are partners in a minority and justice task force. You had a bill a year ago dealing with presentence investigations and allowing those to be used for research purposes. You have another bill this year that Senator Chambers is carrying, making juror questionnaires accessible for research purposes by this minority and justice task force implementation committee. This is a task force that when looking into jury selection in Nebraska discovered three years ago that there was no uniformity as to how a county updated or refreshed its jury lists. We came forward with a bill that required that that be done annually. Since that time we've had discussions with the county officials as to how to handle those smaller counties. We support their proposal. It makes sense to us that in these counties with 3,000 or fewer inhabitants that they refresh that jury list once every two years. That makes sense to us. We support LB 402. Thank you.

SENATOR BOURNE: Thank you. Questions for Mr. Mueller? Seeing none, thank you.

BILL MUELLER: Thank you.

SENATOR BOURNE: Further testifiers in support? Testifiers in opposition? Testifiers neutral? Senator Fischer has waived closing. That will conclude the hearing on LB 402. And Senator Beutler, to open on LB 529.

LB 529

SENATOR BEUTLER: (Exhibits 1, 2, 3, 4, 5) Afternoon, Mr. Chairman, members of the committee. LB 529, Mr. Chairman, brings the clerks of the district court and their employees, approximately 285 of them around the state, into the state judicial personnel system and it makes them, in fact, state employees. The judges of the district court and the Supreme Court would, for the first time, actually

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administer and be responsible for the entire system that assists them in managing their case files. This bill in almost exactly the same form as far as its substantive provisions are concerned, was passed out of this committee and passed by the Legislature. It was three or four years ago and vetoed by the governor in a climate of declining revenues. Since that time I have not pushed the bill because we obviously have been in a situation where revenues have been extremely short. That situation is changing and I think that this ought to be one of the first pieces of legislation funded with the improved revenues because this is a piece of actual structural reform. It's the kind of thing that will make a long-term difference in the effectiveness and in the cost of administering a very large and difficult system. The principal advantages of the bill are these. The clerks of the district court would no longer be elected but would be chosen by the judges for their managerial skills. The position is not a policymaking position but a management position and the best people, in my opinion, will be found by selection not by election. The clerks of the county court are already now selected by the judges whom they serve so it would become like any businesslike organization where the people who are doing the work are being managed by the people that they, in fact, work for. The bill would help to equalize pay scales for employees of the clerks of the district court around the state. These pay scales are currently uneven from county to county and simply unfair in many cases. With LB 529, pay would be fair and more uniform throughout the state for similar types of work done. And it would put the court system in a position of ultimately putting in place pay scales that would be considered fair as between the clerks of the county court and the clerks of the district court also who are doing similar types of work. Ex officio clerks of the district court which exist in more than 37 counties would be consolidated into the offices of the clerks of the county court saving over \$200,000 and possibly considerably more just in phase one of the plan alone. Ex officio clerks of the district court exist in counties where there are fewer than 7,000 population and those counties have the options of having their own elected clerk or they can ask one of the other public officials, the county clerk in this case, to take over those duties and the duties are then performed by the elected county clerk. So the elected county clerk does their own work, sometimes does a couple of

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other types of work but also is expected to do the work of the clerk of the district court and to know what they're doing. Further consolidation savings will accrue if additional offices are consolidated over time under one clerk of the court so the bill provides for further consolidation under specified circumstances that I'd be glad to talk about. Employees will become more highly skilled and effective because they will no longer be working, many of them, on different types of jobs but will, in fact, be clerks of the district court, trained under training programs that the judicial system has, operating under helpful guidelines and programs that the court administrators' office have. And they would be, in effect, administered by the court administrators' office just as the clerks of the county courts are right now. This bill provides a major piece of financial relief to the counties and is the equivalent of a \$5,000 annual state aid program to the counties once it is fully implemented. That \$5 million can be property tax relief for county taxpayers or it can be used for other pressing county needs. I passed out to you a sheet you might be interested in, showing the cuts that county aid has taken since 2001 in the state Legislature so you can see they've been losing a lot of aid. This is one mechanism by which some of that aid could be restored while doing at the same time a piece of structural reform that's very important. I see I need to stop, Mr. Chairman. There are other things I should be informing you on but I'll try to do that off the record here, I guess.

SENATOR BOURNE: Thank you. Before we ask for questions from Senator Beutler, could I get a show of hands of those individuals wishing to testify in support? I see two. Those in opposition? I see 30 (laughter). Just kidding. I see (laugh)...I see none. Those in a neutral capacity? I see one, two...I see five neutrals. Questions for Senator Beutler? Senator Beutler, is there any...you want to give us some last thoughts on other important elements? (See also Exhibit 6)

SENATOR BEUTLER: Yeah. First of all, I just want to emphasize that I'm very open to working with everybody involved in this process. We have done this go-around a couple of different years but there are still now, very small, but still important to some people, questions coming up. And I just want the committee to know that these little

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things like accrued leave and vacation and all those things are important to individuals. We're still working on them. We're trying to accommodate absolutely everybody we can and still be fair in the system. The only other thing I would take the opportunity to tell you right now, Mr. Chairman, there is a sheet that I've attached, a handout called General Fund cost for LB 529. And I tried to show what happens in the next five fiscal years if you pass this bill. This bill is funded in two ways. It has a \$2 court fee for both the county courts and the district courts but the cost beyond that then is funded by the General Fund. So if you increase that \$2 increase in the fees then in the next two fiscal years and, Senator Aguilar, you know from being here that those are the two years we're set in the budget for, this bill doesn't take any General Funds for the next two-year period because it transitions in in a three-stage development. And the little map I showed you has three different colors on it and you can see the three judicial districts in each stage that are phased in at different points in time. So it takes no General Fund money for the next two years and then you can see on the sheet the General Fund money that would be required ultimately and, frankly, Mr. Chairman, ultimately, this is about a \$5 million bill.

SENATOR BOURNE: Okay. Any questions for Senator Beutler? Senator Flood.

SENATOR FLOOD: Senator, thank you for your testimony. If we were to pass this bill and then come back in a subsequent year and remove some of the venue restrictions for county or district courts, would it allow for the consolidation of courts in western Nebraska per se?

SENATOR BEUTLER: Well, it doesn't enable you to do that. I mean, there are certain constitution...

SENATOR FLOOD: This bill doesn't.

SENATOR BEUTLER: ...no, it does not. There are certain constitutional and other statutory pieces of law that you would have to deal with, Senator. But if that's what you're thinking of down the line, this, of course, fits into that because you're able to consolidate those offices under the authority of this bill. There are ways you can make it easier under this bill but you could certainly do it under

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this bill, under certain conditions.

SENATOR FLOOD: Thank you very much.

SENATOR BOURNE: Thank you. Further questions? Seeing none, thank you.

SENATOR BEUTLER: Okay.

SENATOR BOURNE: First testifier in support.

JOHN HENDRY: Good afternoon, Chairman Bourne and members of the Judiciary Committee. I am John V. Hendry, H-e-n-d-r-y, the current Chief Justice of the Nebraska Supreme Court. I appear before the committee this afternoon on behalf of the Supreme Court in support of LB 529. I have given similar testimony regarding prior consolidation bills which would be LB 411, LB 348, and LB 751. Consolidation of the district court employees, what the current court employees would enable the Supreme Court to more efficiently carry out its constitutional responsibilities under our state Constitution, Article 5, Section 1, which states: "General administrative authority over all courts in this state shall be vested in the Supreme Court and shall be exercised by the Chief Justice. In truth, the Supreme Court only has approximately two-thirds of those employees working in our courts under its direct administrative supervision. All district court employees are employed by the county and all district court clerks are elected officials. This does have the potential for creating administrative problems. For instance, if there is a concern in how a particular district court is being operated, the Supreme Court's authority to act is somewhat restricted. In addition, since every county has its own district court and its own budget, it can be challenging when attempting to implement statewide programs because of financial disparity. As an example, in the court's implementation of its statewide computer justice system, it became necessary for the state of Nebraska to fund the entire project due, in part, to budgetary considerations in our 93 counties. Frank Goodroe, our state court administrator, will also be testifying in support of LB 529 and will discuss some of the administrative efficiencies he sees as a court administrator if LB 529 were enacted into law. Thank you very much for considering these comments.

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SENATOR BOURNE: Thank you. Questions for Chief Justice Hendry? Seeing none, thank you, appreciate your testimony. Next testifier in support.

FRANK GOODROE: Good afternoon, Senator Bourne and members of the committee. My name is Frank Goodroe spelled G-o-o-d-r-o-e. I serve as the state court administrator to the Nebraska Supreme Court. Provided to you have been extensive materials that are included in the fiscal note and our staff, in cooperation with many others, has spent a tremendous amount of time gathering information, factual information, for that fiscal note. It's rather detailed and it's additionally one in addition to your Howard Kensinger's fiscal note. There are some slight differences between the two. This bill, I know there have been versions of it in the past, suggest a three-year phase-in of all of the counties, all 93 counties. With 2007, there would be 52 counties involved and most of those 52 counties include the 38 or 39 counties that have ex officio clerks. Where they don't have a specific clerk of district clerk it is usually the county clerk who has multiple hats, one of which is being clerk of the district court. The first year in 2007, it would involve 75 employees that are currently county employees in clerks of district courts' offices or ex officio clerks' offices. They would become state employees. Eventually, at the conclusion of the complete transition, there would be 285 full-time positions involved, assuming that there were not reductions or changes in the staffing during that time period. I would mention to you that I had an opportunity during the summer and fall to visit all 12 of the judicial districts in the state. And I was able to visit 70 of the 93 county courthouses and so it was a very good educational opportunity for me. And one visit...well, several of the visits stick in my mind but one visit was in Banner County and the person there is an ex officio clerk. She holds five positions. She has herself and a quarter time employee and she has five different computer systems in her office of which, you know, elections, DMV, their own county financial stuff, and justice. And, frankly, the justice one is the one she knows the least about. But, ideally, it would be very helpful if we could have our part-time county court employee who is there help work on the 29 cases that we have in the district court in Banner County but we're not allowed to do that

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under the current arrangement. As the chief justice indicated, the clerks of the courts, it's a ministerial function as are the clerks of the county court and they are officers of the district court. We have many of our clerk magistrates in the state that currently serve in more than one county. We don't have that option with the current situation with the district courts. I think this piece of legislation has tremendous potential, some of which is this uniformity and practice and procedures. And just one little simple thing but it cost a great deal of money. Every single county court and 92 of the district courts in the state use Justice so they're all using that computer system and we pay for communication lines, separate communication lines for the county court and for the district court. Everything is separate. So this has the potential of changing that.

SENATOR BOURNE: Thank you. Questions for Mr. Goodroe?
Seeing none, thank you.

FRANK GOODROE: Thank you.

SENATOR BOURNE: I don't think the lack of questions is a disinterest. I think, you know, Senator Beutler, as usual, is always prepared and we've heard the issues so thank you.

FRANK GOODROE: Okay, okay.

SENATOR BOURNE: Further testifiers in support? Are there testifiers in opposition? Neutral testifiers? And, again, we're going to make use of the on-deck area so if you'd make your way forward. Welcome to the committee.

MARLENE VETICK: (Exhibit 7) Good afternoon, again, Senators. My name is Marlene Vetick, V-e-t-i-c-k. I'm the clerk of district court from Platte County, Nebraska, and I'm also representing the Clerks of the District Court Association. In the effort of saving time, I've made my presentation with the amendments and I just ask that they be passed out to the senators. I'm here to testify neutral with concerns regarding LB 529. I have those concerns listed in my handout and I'd be happy to answer any questions that you have about LB 529.

SENATOR BOURNE: Thank you. Are there questions for

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Ms. Vetick? Seeing none, thank you.

SENATOR FLOOD: Oh, real quick.

SENATOR BOURNE: Sorry, Senator Flood.

SENATOR FLOOD: When you campaign for clerk of the district court in Platte County, what issues do you campaign on?

MARLENE VETICK: The issues that I...the reason why people should elect me as a clerk of district court?

SENATOR FLOOD: Well, what are the, I mean, with the voters if I was running for county attorney I could say I'm going to be tough on meth, I'm going to be tough on this. When you run for clerk of the district court, what kinds of things do you tell them that you'll do for them?

MARLENE VETICK: I'll be efficient, I'll be honest, and I'll be reliable.

SENATOR FLOOD: Okay. But there's no...your duty, your job, does it have anything political in it that you could take an aggressive stance on something?

MARLENE VETICK: No, no.

SENATOR FLOOD: Okay, thank you.

MARLENE VETICK: Um-hum.

SENATOR BOURNE: Thank you. Further questions? Seeing none, thank you. We appreciate your testimony.

MARLENE VETICK: Thank you.

SENATOR BOURNE: Next testifier in a neutral capacity? Is this our last testifier in a neutral capacity? We're going to make use of the on-deck area. Welcome to the committee.

DARLA SCHIEFELBEIN: (Exhibit 8) Good afternoon. I also have a handout. Good afternoon. My name is Darla Schiefelbein spelled S-c-h-i-e-f-e-l-b-e-i-n, and I am the clerk magistrate at Platte County court in Columbus, Nebraska. I'm here today representing the Clerk Magistrates

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Association and the county court employees. The county court, the Clerk Magistrates Association and our employees, we are neutral but we do have concerns about LB 529. The handout I'm giving you is very brief. But three things that we do list and would like brought to the attention of the committee is the fact of the funding. Current employees of the county court system have not received a step pay raise for the past two years. The step plan for pay raises was instituted several years back. The last two years, it could not be funded. We question as state employees in the county court system how we can take on these additional employees, and I believe the number was 285 positions, pay their salaries and benefits when we haven't been able to pay for the employees that have been long-time employees for many years. Our point two that we bring up is the preservation of current county court staff positions. This bill on page 8, lines 10 through 25 talks about insuring the district court staff that come in as state employees and the clerks of the district court, their positions. But we feel as current employees of the state that our positions as clerk magistrates and the positions of our staff are not addressed or insured. And we feel this needs to be looked at. There is also verbiage in the bill talking about the new position of clerk of the court that will be instituted and it's of interest to us as we say like on page 6, lines 26 through 28, it implies that the district judges will appoint that clerk with the consensus of the county judges. We feel that that appointment of whoever the clerk of the court does ultimately become should not be left up to that. We feel that any district judge, county judge, or separate juvenile judge if they're practicing in that county, should have an equal say in who is appointed. There are many items in this bill that we have concern on but those are our three main concerns at this time and we appreciate your consideration. I would take any questions.

SENATOR BOURNE: Thank you. Questions for Ms. Schiefelbein? Seeing none, thank you.

DARLA SCHIEFELBEIN: Thank you for your time.

SENATOR BOURNE: Further testimony in a neutral capacity?

BILL MUELLER: Mr. Chairman, members of the committee, my name is Bill Mueller. I appear here today on behalf of the

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Nebraska State Bar Association. The bar association has taken the position of no position on the clerk or structure issues. Historically, we have opposed the funding provisions of this bill. As Senator Beutler told you, this is at least the fourth bill in this area and I think that he's been at this eight to ten years. I can tell you, he has worked tirelessly with district court judges, county court judges, clerk magistrate, clerks of the district court, bailiffs, juvenile judges, every part of the judicial system. Last year's bill, LB 751, provided for a \$10 increase in filing fees to fund this. We are pleased that this year's version has a \$2 increase to fund this system. Our concern is just the general concern about continuing to increase filing fees and court costs because we really don't want to get to the point where access to the courts starts being affected. This bill from a funding standpoint is different than it has been in the past and we believe that this is an obligation that should be General Fund funded. We are certainly cognizant of the fiscal situation with the state and one of the things that Senator Beutler has also done that I think is very creative and he testified to this, but it is to phase in this system so that everyone in this system does not become a state employee on one date. He does phase it in. I think that's very creative. Be happy to answer questions the committee may have.

SENATOR BOURNE: Thank you. Questions for Mr. Mueller?
Seeing none, thank you.

BILL MUELLER: Thank you.

SENATOR BOURNE: Further testimony in a neutral capacity?

LARRY DIX: Senator Bourne and members of the committee, for the record my name is Larry Dix spelled D-i-x. I'm the executive director of the Nebraska Association of County Officials. I'm a little bit out of breath. I'm running from Government to back and forth here to do a little testifying so with that, a couple of the things that we point out and certainly I'm sure you've heard from our clerks of the district court and probably have answered a majority of those questions. When we look at the bill, fundamentally some things from counties that we just want to have on record, there's some sections in the bill where if

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this were to happen then at that point in time county governments would have to pay for the accrued vacation, sick time which would be a one-time payment to the state to balance that all out. And certainly we're not here to say that shouldn't happen. We are only here to say that in looking at some of the different scenarios and the number of employees that some of the counties may have that we moved across, if that is a one-time payment it could impact and I don't have the figures that says it will. But it could impact some of our lid limitations and things like that so we would ask that if we are going to go down that path that we do take a look at that and possibly it would be a one-time exemption to move that outside of the lid so that when the counties did make that one lump sum payment that it could be handled in that fashion. That was one of the concerns from a county board perspective that we had. Other than that, certainly you've heard and I think has been in evidence here, we have a number clerk of the district courts that feel positive about this. We have a number of clerks of the district courts that say it could impact them in one way or another in a negative fashion. So with that, I'd be happy to try to answer any questions you may have.

SENATOR BOURNE: Thank you. Questions for Mr. Dix? Seeing none, thank you. Other testimony in a neutral capacity? Senator Beutler to close.

SENATOR BEUTLER: Senator Bourne, members of the Legislature, several things I just want to say quickly but most of all, I want to be sure that I'm not misrepresenting anything to you. There is another \$3 court fee in this bill which has to do with the public advocacy commission. I had understood that members of the committee were interested in that as a possible court fee item so I put it in the bill. I wasn't sure where your court fee things were going to be. It's there. The map that was passed out to you, I wanted to be sure and clarify for you that that map shows employees of the clerks of the district court...it doesn't show all personnel. Not all personnel are being incorporated into the state system. The judges, for example, were not particularly eager to have their bailiffs included in the merger and so they have not been included. I do already have some technical amendments and relatively minor amendments that I'll give to committee counsel if the page could help me which have to do with some further follow-up

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with clerks of the district court and some small things that could make it better for them. The clerk magistrates, though, they are protected and the employees for the county court, they are all protected. Certainly their jobs, I mean they're already state employees and there is no way that they would be losing their positions as this bill is structured. They couldn't be consolidated out of them. There is no way they could lose their positions unless, of course, there was some sort of gross violation of common personnel rules so it would be the personnel rules of the court. Well, I'm going to get into, I think I'll not get into responses to some technical things but to the extent that there are pending questions, I'd certainly be glad to try to answer them.

SENATOR BOURNE: Thank you. Questions for Senator Beutler. Seeing none, thank you. That will conclude the hearing on LB 529. Speaker Brashear to open on LB 648. Welcome.

LB 648

SENATOR BRASHEAR: It's all deserved. Mr. Chairman, members of the Judiciary Committee, my name is Kermit Brashear. I'm a legislator from District 4. I appear in introduction and support of LB 648. I want to tell you that it's my pleasure to be back. I've looked forward to it. I bring to the committee today three bills that are of no apparent major importance and yet all three help us advance the cause of maintaining order and clarity in our statutes and in that way advance the people's business. LB 648 addresses language currently in our statutes related to a pilot program for dispute resolution regarding a settlement escrow technique. In 2001, language was added to our civil procedure statutes in an attempt to consider the merits of the settlement escrow procedure as a method of alternative dispute resolution or ADR. By its terms, that language terminated or sunset on...was sunsetted on July 1, 2004. Given that this language is no longer operative, it has been suggested by the Revisor of Statutes that it be stricken from the statutes in order to maintain clarity and relieve expense. LB 648 would repeal those sections. I'd ask for the advancement of the bill.

SENATOR BOURNE: Thank you. Questions for Senator Brashear?

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LB 648, 649, 650

Seeing none, thank you. Could I get a show of hands of those individuals wishing to testify in support? Those in opposition? Those neutral? Senator Brashear to close. Senator Brashear waives closing. That will conclude the hearing on LB 648. And Speaker Brashear to open on LB 649.

LB 649

SENATOR BRASHEAR: Mr. Chairman, members of the Judiciary Committee, my name is Kermit Brashear. I'm a legislator in District 4. I appear in introduction and support of LB 649. LB 649 makes clarifying changes to Section 25-1144 of the Nebraska Revised Statutes regarding motions for a new trial and these are offered upon the recommendation of the Revisor of the Statutes. Current law employs archaic language and structure and needs to be harmonized with other statutes in our law. LB 649 will ensure that Section 25-1144 employs proper cross references to other sections of the statutes and makes use of the type of language used elsewhere in our statutes. I would urge the advancement of LB 649.

SENATOR BOURNE: Thank you. Questions for Senator Brashear? Seeing none, before you leave let's see if...let's poll the audience. Are there testifiers in support? Testifiers in opposition? Testifiers neutral? Senator Brashear to close. Closing is waived. That will conclude the hearing on LB 649. Speaker Brashear to open on LB 650.

LB 650

SENATOR BRASHEAR: Mr. Chairman, members of the Judiciary Committee, my name is Kermit Brashear. I'm a legislator representing District 4. I appear in introduction and support of LB 650. LB 650 clarifies language related to when an audiovisual court appearance is made upon recommendation, and this is also upon recommendation of the Revisor of Statutes. Current Section 29-4205 of the Nebraska Revised Statutes could be deemed confusing and lacking in some degree of organizational structure. This section addresses the questions of when and for what purposes facsimile and actual signatures are required and the issue of when videotaped copies of the proceeding must be retained. LB 650 would amend the section in order to

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LB 361, 650

divide the language into subsections that would enhance the organizational clarity of the section. No substantive changes to the requirements for actual signatures or retention of videotapes are made by the bill. I would urge its advancement.

SENATOR BOURNE: Thank you.

SENATOR BRASHEAR: Thank you.

SENATOR BOURNE: Questions for Speaker Brashear? Seeing none, thank you. Testifiers in support? Testifiers in opposition? Testifiers neutral? Senator Brashear has waived closing. That will conclude LB 650.

LB 361

SENATOR CHAMBERS: Before Senator Bourne begins on this bill, LB 361, how many are speaking in favor of the bill? Two. How many opposed? None. How many neutral? None. Senator Bourne, you may proceed.

SENATOR BOURNE: Thank you. Senator Chambers, good afternoon, members of the Judiciary Committee. For the record, my name is Pat Bourne. I represent the 8th Legislative District in Omaha, here today to introduce LB 361. LB 361 is a technical bill and simply cross references an exception to the county court's exclusive jurisdiction of probate matters. Under Nebraska law, county courts have exclusive jurisdiction to hear all matters of decedent's estates including the probate of wills. However, Section 30-2462(c) provides an exception. That provision provides that for causes of action that survive the decedent, the court that would have had jurisdiction over the decedent's claim would hear the case. A bill identical to LB 361 was introduced in 2003, was advanced by this committee to the Legislature but ran out of time for its passage. Thank you.

SENATOR CHAMBERS: Any questions of Senator Bourne? Thank you, Senator. Those who would speak in...oh, and nobody against. Then Senator Bourne, are you going to close?

SENATOR BOURNE: No.

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LB 469

SENATOR CHAMBERS: Then why don't you take the chair again because it's going to end the hearing on that bill? I probably didn't read the number very clearly last time so I'm going to read...this is the last bill on the agenda. It's LB 469. How many will speak in favor of this bill? Oh, my goodness, just a minute, probably...almost everybody in the room with one, two, three, four, five, six....

SENATOR COMBS: I hope they don't be repetitive.

SENATOR CHAMBERS: ...and one of the members said she hopes they won't be repetitive. How many are going to speak against this bill?

SENATOR COMBS: Have mercy.

SENATOR CHAMBERS: Oh, my goodness. None. Anybody neutral? Mr. Mueller, I'm asking, is anybody neutral on this bill?

BILL MUELLER: For.

SENATOR CHAMBERS: Four? Oh, you're speaking for the bill.

BILL MUELLER: Yes.

SENATOR CHAMBERS: So anybody neutral? Okay, nobody opposed, nobody neutral. Senator Bourne, you may proceed.

SENATOR BOURNE: Thank you. Thank you, Senator Chambers, members of the Judiciary Committee. My name is Pat Bourne. I represent the 8th Legislative District in Omaha, here today to introduce LB 469. LB 469 would allow for the adoption of the Public Guardianship Act and create the office of public guardian. The current system of obtaining a guardian for persons in need is inadequate. It does not provide the necessary safeguards for those individuals and it does not provide the necessary resources for those who serve as guardians or conservators. Additionally, our current system does not guarantee that an appropriate conservator will be provided in an emergency. Under LB 469 the office of public guardian would fall under the judicial

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branch and the Supreme Court would appoint an individual to serve as public guardian. The office would provide guardians or conservators when no other qualified person is available or in emergency situations. It would guarantee that there is no lapse in service to individuals and would protect the rights of those individuals by exploring services that are the least intrusive. Other duties of this office would include raising the public's awareness of the duties of guardians and conservators, recruiting more people to serve in this capacity and providing resources for existing guardians and conservators. The bill also calls for the establishment of an advisory council on public guardianship. The council would advise the public guardian and would be comprised of 11 members. Those 11 members would include a representative of the Nebraska County Judges Association, the Nebraska State Bar Association, social workers, mental health professionals, developmental disability professionals, and any other interested party. LB 469 ensures the service of guardianship and conservatorship as held to an appropriately high standard. But most importantly, LB 469 ensures that those in need are adequately served and protected. (See also Exhibits 9, 10, 11, 12)

SENATOR AGUILAR: Questions for Senator Bourne? Seeing none.

SENATOR BOURNE: Thank you.

SENATOR AGUILAR: Testifiers in favor of LB 469?

SENATOR HENDRY: (Exhibit 13) Good afternoon, Chairperson Bourne and members of the Judiciary Committee. I am John V. Hendry, H-e-n-d-r-y, Chief Justice of the Nebraska Supreme Court. I appear before the committee this afternoon on behalf of the Supreme Court in support of LB 469. I believe LB 469 will help our judges who deal with guardianships and conservatorships and instances when suitable individuals cannot be found or when people already appointed need to be removed. Judge Curtis Evans, county court judge in the 5th Judicial District who offices principally in York, Nebraska, will be testifying in greater detail regarding the problems that county court judges encounter in this area and how LB 469 could help resolve some of those problems. I do have a concern with some portions of the bill as it is

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currently drafted. My concern is that the bill does not sufficiently delineate the administrative responsibilities of those charged with administering this program within the Supreme Court. I think it is important that in the first instance administrative responsibility be given to the court administrator's office. Establishing a clear line of administrative authority will make the administration of the program more efficient. We have prepared proposed amendments to the legislation to address this concern which we have previously delivered to the offices of Senator Bourne and Senator Pedersen. I have additional copies with me today which I would ask to be distributed to all members of the Judiciary Committee. Thank you.

SENATOR AGUILAR: Questions for the Chief Justice? Seeing none, thank you.

JOHN HENDRY: Thank you.

SENATOR AGUILAR: Next testifier in support.

CURTIS EVANS: Members of the committee, my name is Curtis Evans, E-v-a-n-s. I am here testifying in support of the establishment of the office of public guardian on behalf of the County Judges Association. We support this bill because we recognize the areas of concern in providing competent guardianship and conservatorship services. Our duty is to appoint competent guardians and conservators and currently the law requires that we depend upon some willing family member, friend, or volunteer to step forward to serve. In the best of circumstances, these individuals would always be available and appropriate to fill this role but frequently this is not the case. We find that volunteers are not always available. Those people who do volunteer who may not be competent. When appointed, some guardians or conservators fail to complete their duties in a way that best serves the ward or even abuses or neglects the ward's needs and must be replaced. A guardian conservator may find the responsibilities are too time consuming or complex to deal with effectively and resign with little notice, and no one is going to step forward to volunteer. The bill contains the following safeguards. It reserves the standing of those individuals who are closest to the ward to be considered as a first priority conservator. The public guardian would be the last choice. It provides for

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education and support of those family and volunteer guardians who agree to help to ensure their success. The office is located in the Supreme Court, giving the public guardian the freedom to act on behalf of the individuals they serve. Limiting the number of the appointments can be accepted, ensures that the decisions can be made with adequate information and contact with the ward, allows the public guardian to be appointed in a time of crisis to resolve initial complicated issues or problems and then recruit a family member or other volunteer who is willing to take over after resolution of the crisis. The option of a public guardian provides these benefits. There can be an immediate response when the need for an appointment is an emergency. A viable option will exist when a guardian or conservator resigns, is removed or discharged. Services to the individual, not need to be interrupted. Further benefits would be an improved standard of practice of guardianship, conservatorship, services, through education, support, and modeling of what the highest standard of the practice of these services can be, providing an increased emphasis on ensuring that individuals receive the support they need in the least restrictive manner possible and that an appointment of the guardian/conservator is done as a last resort. An increased pool of people outside the office of public guardian who are willing to be appointed by increasing the awareness of the need and providing the education and the support to those volunteers who step forward. Judges are concerned about the issues previously noted. Our response to those concerns is limited due to the lack of ability to fulfill our duties under the law to provide a competent guardian or conservator for a person in need when no volunteer or competent volunteer steps forward. The office of public guardianship provides us with the means to fulfill our duty to the person who needs a guardian or conservator and to the public. We also see that this problem is likely to grow due to the aging of baby boomer generation, increased substance abuse and other societal factors that will create a larger demand. In the end, the most important beneficiary of these proposed services are those individuals who are not able to act on their own behalf. It is the protection of their health and well-being and finances that has driven this effort. I would like to thank you for your time and attention to this important issue and hope you will vote for LB 469. Thank you.

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SENATOR AGUILAR: Questions from the committee. Senator Flood.

SENATOR FLOOD: What services are being provided now? I know there's a training video for guardians. Is that correct?

CURTIS EVANS: There is a training video that was prepared several years ago but that was supposedly just the beginning and was supposed to be enhanced upon. That training video has been around and it is marginal. What has been taking place at this time is, there has been through the extension services have in cooperation with the judges association and the Chief Justice office has set up a new curriculum that is being pioneered right now as we speak and that new curriculum is taught by the extension services and it is a two to three hour curriculum where the person appears and is given much more information. They're allowed to ask questions. They can talk with people about this. There's an attorney present at that particular situation where a lot of the issues can be resolved rather than sitting down and watching a video which just kind of get some highlights and a few points. And it doesn't really tell you a whole lot of anything but it was good for what it was. But we have gone beyond that now and it's in a pilot project. If it works out and from what I know it is working well, we may be able to move that forward and this particular act here, the public guardian, if in fact this proceeds would be helpful in keeping that part of it going. In other words, providing support to the people who are relatives and volunteers who step forward so that they were very able to do their jobs.

SENATOR FLOOD: Would the state administrator hired or the guardianship administrator for the state through the Supreme Court be taking the place of an attorney hired by the family? Say I have a question and I'm a guardian about moving my ward into a nursing home versus assisted living and trying to make the right decision given their situation. Sometimes those questions would go to an attorney rather than an administrator. Would you share those concerns that maybe...

CURTIS EVANS: I understand what you're saying. There's a certain amount of public information that's presented and that's presented like in small claims you have a brochure

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for that type of situation. It's not our intention to take over and provide an office that answers all those questions. That's not what the public guardianship is about. The public guardianship is something that the judge could appoint, if necessary, in that situation. Now the educational factor of it, yes, there may be some issues there where general things are taken care of. But I would think that most generally if you get right down to it, most people would have to refer them to an attorney to get to their specific needs. That might be a starting point for people but their specific needs would always have to probably be addressed by an attorney who could look at what their finances and resources are and what their particular problem is. I think it would go back to the attorney and I don't see it taking over that.

SENATOR FLOOD: And your testimony earlier was that...and I didn't know anything about this program through the extension services. That's already happening right now.

CURTIS EVANS: That is a pilot project in progress right now.

SENATOR FLOOD: And who funds that right now, the university?

CURTIS EVANS: Well, right now I think the university is helping this considerably and it's being done just with the few funds that are available to us. It's really a truly pilot project. There really isn't a funding agency through the Legislature for it now.

SENATOR FLOOD: Thank you very much.

SENATOR AGUILAR: Thank you, Senator Flood. Any other questions from the committee? Thank you. Next testifier, please.

MARY GORDON: (Exhibit 14) My name is Mary Gordon, G-o-r-d-o-n and I am testifying on behalf of the Nebraska Planning Council on Developmental Disabilities. Although the council was appointed by the governor and administered by Health and Human Services, it is a federally mandated independent council. Therefore, the position of the council is not necessarily that of the governor's administration.

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The council is comprised of individuals and families of persons with developmental disabilities, community providers, and agency representatives that advocate for systems change and quality services. The council supports LB 469, the Public Guardianship Act. Although not everyone with a developmental disability needs a guardian, there are about two-thirds of the individuals in services that have them. These individuals must rely on family members, relatives, friends, and volunteers. It has become increasingly more difficult to find someone willing to serve in this capacity. And, unfortunately, this difficulty in finding a guardian is worsened for a person without financial resources. It can result in some people having a guardian who does not know them, does not show interest in their life, and does not work to foster increased independence on the part of the ward. LB 469 establishes an Office of Public Guardian under the Supreme Court that would serve as guardians for people when no appropriate guardian can be found. This legislation would offer an option to those persons who need guardianship on a temporary or permanent basis. The establishment of the office would provide a centralized location in Nebraska with resources and persons with expertise on guardianship. Guardianship is a serious responsibility and the state through the courts should provide training and expertise when questions arise both for family members, volunteers, and professional guardians. Parents who are on the developmental disability council have said that they have received sometimes no training when they assume guardianship of their adult children and felt such expertise would be very helpful. The council and myself representing them have worked with Judge Evans and his wife, Mary, advocates in the administrative office of the courts, and Nebraska Cooperative Extension to develop the curriculum that was referred to earlier. It is not being piloted in eight judicial districts and we realize how much this training is needed. We feel the guardianship removes the rights of persons and so it is a very serious responsibility to insure that it's done only when needed and that all guardians have access to professional expertise as they carry out their duties. Thank you, Senators. Do you have any questions?

SENATOR AGUILAR: Questions for Ms. Gordon? Seeing none, thank you.

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MARY GORDON: Thank you.

SENATOR AGUILAR: Next testifier, please.

LOVEDA MITCHELL: Senators, my name is Loveda Mitchell, M-i-t-c-h-e-l-l. I am the parent of a young man who has a cognitive developmental disability. My son, Spencer, will always need someone who is competent, knowledgeable of his needs, and is interested in acting on his behalf and his best interests. My husband and I have striven to prepare for his future security and protection after our deaths. We do not have a large extended family to count on so this is very difficult. Actually, it's impossible to ensure that he will continue to enjoy competent caring protection throughout his life. Our situation mirrors that of many other families. Also, I have spent many years as an advocate for people that have developmental disabilities and I have seen firsthand the results of inadequate or inappropriate guardianship. I'm here to testify in favor of LB 469 establishing the office of public guardian for two major reasons. One being a knowledgeable public guardian would be provided for those individuals in need after all less restrictive options have been explored. The public guardian would be within the judiciary branch of government as many individuals with disabilities receive services from some entity of the state government. This ensures the public guardian a degree of autonomy. Number two, the provision as a resource to private guardians for education, information, and support is an imperative step toward safeguarding the rights of individuals. Having total control over someone's life is an awesome responsibility. Guardians must be empathetic, ethical, knowledgeable, and must be held to the highest standard of practice. Thank you for the opportunity to present my views.

SENATOR AGUILAR: Thank you. Questions for Loveda? Seeing none, thank you.

LOVEDA MITCHELL: Thank you.

SENATOR AGUILAR: Next testifier, please.

JOE SWOBODA: (Exhibit 15) Some handouts. Senators, thank you for allowing me to testify regarding LB 469. I'm Joe Swoboda spelled S-w-o-b-o-d-a, a clinical psychologist with

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the Community Mental Health Center of Lancaster County here in Lincoln, Nebraska. This is a facility that works with consumers with severe mental illness. On any one day of the month, the center serves approximately 1,600 individuals by offering an array of mental health services including 659 consumers who are part of the Community Living Services, a part of which I am the direct clinical supervisor. We have a fair number of consumers for whom guardianships are already in place, mostly provided by family and/or the private sector. However, we have continued need for guardianship status for a number of our consumers, many of whom have little ability to make good decisions regarding their person, their finances or their mental or physical health. This is a serious and ongoing need, particularly for those without means to afford guardianships if there is no one directly available for taking on such responsibility such as a family member, a family attorney or the like. The mental health center, as a public entity, is one of those services forbidden to take on guardianship, conservatorship or power of attorney for our consumers. Having an identifiable public office of guardianships which would have highly-trained staff who are familiar with the ins and outs of providing mental health treatment to consumers, a number who are incapable of taking care of themselves is a good idea. It would allow us, as direct treatment professionals, to help our consumers access health, financial, legal and other services on a more timely basis than can occur at the present time, given the limits of the commitment laws for the state of Nebraska. With timely access to needed services for our consumers who have guardianships in place or for whom guardianships can be established on an emergency basis through immediate court review, it is highly likely we can decrease the use of emergency protective custody warrants. With more immediate access to services, less use of law enforcement and crisis center interventions, we can hopefully decrease the need for post-commitment days that are costly and leave the consumer in limbo for getting the needed treatment in a timely manner. I and the mental health center staff are in favor of establishment of an office of guardianships under the Public Guardianship Act and thereby offer our support for LB 469.

SENATOR AGUILAR: Thank you. Questions? Seeing none, thank you.

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JOE SWOBODA: Thank you.

SENATOR AGUILAR: Next testifier, please.

DEBORAH WESTON: (Exhibit 16) Good afternoon, Chairman Bourne and members of the Judiciary Committee. My name is Deborah Weston. I'm the executive director of the Arc of Nebraska and I'm testifying on behalf of the Arc of Nebraska support...

SENATOR AGUILAR: Spell your last name, please.

DEBORAH WESTON: Weston, W-e-s-t-o-n.

SENATOR AGUILAR: Thank you.

DEBORAH WESTON: The Arc of Nebraska is a support and advocacy organization for people with developmental disabilities and their families. The Arc of Nebraska is a state affiliated chapter with 18 local chapters with approximately 2,500 members across the state of Nebraska. I also am the single parent of an adult child with autism. I appreciate this opportunity to speak with you today. We are also very pleased to support LB 469 and ask you to adopt the Public Guardianship Act. This, as many people have said, addresses a very serious issue and I concur with the previous testifiers and for the purposes of brevity, let me just say that the Arc is an advocacy agency for people with developmental disabilities so when we look at a bill like this where right...we're talking about restriction of rights of people with developmental disabilities. We read it very carefully and closely. We believe that this is a very well-structured and defined bill. We support its passage because when a guardian is needed for a person and there is no one available, it puts that person at risk. This bill sets out real clear expectations and responsibilities for the guardian as well as safeguards for the rights of that person. It states that alternatives must always be explored and that the less intrusive means of intervention must be explored and then if unavailable then we look to a public guardian. So, while we believe that a guardianship should be looked at as a final measure and we should look at partial, impartial powers of attorney, this bill contains that language and so we fully support its passage.

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SENATOR AGUILAR: Questions for Ms. Weston? Thank you for coming down today.

DEBORAH WESTON: Um-hum.

BRUCE CUDLY: Senators, members of the committee, thanks for the opportunity to speak in support of the public guardianship bill. My name is Bruce Cudly, C-u-d-l-y. I work for Region V Services which is located in southeast Nebraska and provides services to people with developmental disabilities. I'm speaking today on behalf of the Nebraska Provider Network which is an affiliated group comprising most of the providers of services within the state to people with developmental disabilities. It's kind of rare for me to come to the Legislature, I guess, and enthusiastically support a bill. I'm usually over in Health and Human Services, sometimes griping about one thing or another. But I am enthusiastically in support of this bill. I think I'm one of those guys where within our services the rubber meets the road. Within Region V we serve approximately 650 people, and I think about 300 of those have guardians. I think I know most of those guardians. I can extend my three-minute time limit for quite a ways talking about good guardians and bad guardians. I can talk to you about the incredible frustration involved in trying to find guardians for people who desperately need them. And so because of those things I really think an office of public guardianship we needed a long time ago. I think we need it now even more than ever. I can talk to you about people who haven't seen their guardian in years. I can talk to you about people who don't even know who their guardian is. I can talk to you about people whose guardians live in California. I can tell you about a person whose guardian lives in Paris and maybe sees the fellow once every five years. I mean, some of the stuff, short of incarceration, guardianship is the greatest restriction of rights that the state of Nebraska can impose on someone. And I don't think we've ever taken it necessarily as seriously as we should. We have a training video that Judge Evans has already discussed as being fairly problematic and I think it's really time for the state to assume some greater role and responsibility in how guardianships are appointed, how it operates, how guardians are trained and that those things be looked at. I think this bill encompasses a great deal of those issues and I think it's just a great bill. So I think that all change is

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for the better, the curriculum has been discussed. I think that's a marked improvement on the training that's been going on before but I think what also remains now is a professional office of public guardianship. And I think the two tied together makes a much, much better package for finding, recruiting, and training new guardians so they know what they're doing and they're supportive and they understand least restrictive alternative and they understand the needs of their wards. So because of that, I'm really in support of the bill as is the provider network. Thank you.

SENATOR AGUILAR: Questions? Seeing none, thank you.

BRUCE CUDLY: Thank you.

SENATOR AGUILAR: Thanks for being here. Next testifier in favor.

BILL MUELLER: Mr. Chairman, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB 469. We would like to thank and commend Senator Bourne and Judge Evans for coming forward with this legislation. The bar association does support the creation of the office of public guardian and the advisory council on public guardianship. When our committee looked at this bill and heard about its origin there was almost unanimous support of doing something like this to really as the last witness testified to, find, recruit, and train guardians and we also enthusiastically support LB 469. Thank you.

SENATOR AGUILAR: Questions for Mr. Mueller? Seeing none.

BILL MUELLER: Thank you.

SENATOR AGUILAR: Was that the last testifier in support? Any opposition? Neutral? If not, Senator Bourne to close. Senator Bourne waives closing. That closes the hearing on LB 469 and the hearings for today (See also Exhibits 17, 18, 19, 20, 21)